

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARQUISE LOUIS DRUMWRIGHT,

Plaintiff,

v.

C. HUCKLEBERRY, et al.,

Defendants.

Case No.: 1:22-cv-01410-JLT-SKO (PC)

**ORDER GRANTING IN PART
DEFENDANT'S MOTION TO MODIFY
THE DISCOVERY AND SCHEDULING
ORDER**

(Doc. 48)

Plaintiff is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The action proceeds against Defendant G. Gomez for violations of Plaintiff's First and Eighth Amendment rights.

I. INTRODUCTION

On April 9, 2025, the Court issued its Discovery and Scheduling Order. (Doc. 47.) On July 3, 2025, Defendant filed a motion to modify the scheduling order. (Doc. 48.)

II. DISCUSSION

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, a scheduling order "may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). This good cause standard "primarily considers the diligence of the party seeking the amendment." *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). The court may modify the scheduling order "if it cannot reasonably be met despite the diligence of the party seeking the

extension.” *Id.* If the party was not diligent, the inquiry should end. *Id.*

Defendant requests the Court extend the deadline for filing an exhaustion-based summary judgment motion by 125 days to correspond with the deadline for filing a merits-based summary judgment motion, allowing for “a joint motion for summary judgment.” (Doc. 48.) Defendant’s motion is accompanied by the Declaration of Daniel Krasiev-Dvornikov, counsel for Defendant. (Doc. 48-1.) Defense counsel states he has investigated and researched potential exhaustion defenses following issuance of the scheduling order, including a review of all relevant records pertaining to Plaintiff’s grievance and appeal history. (*Id.* at 2, ¶ 3.) On June 30, 2025, defense counsel identified a viable exhaustion defense (*id.* at 3, ¶ 6), and states he needs additional time to coordinate and finalize the declarations in support of a motion for summary judgment (*id.* at 2, ¶ 3), while handling his other cases. Counsel also anticipates that Plaintiff’s deposition will be conducted in late July 2025. (*Id.*)

This Court finds Defendant has established good cause to modify the exhaustion-based summary judgment motion filing deadline and will grant the motion *in part*. *Johnson*, 975 F.2d at 609. The Court will grant a 75-day extension of the exhaustion-based summary judgment motion filing deadline to allow counsel to file the motion.

III. CONCLUSION AND ORDER

Accordingly, and for good cause shown, **IT IS HEREBY ORDERED** that:

1. Defendant’s motion to modify the scheduling order (Doc. 48) is **GRANTED IN PART**; and
2. The deadline for filing an exhaustion-based summary judgment motion is **EXTENDED** from July 9, 2025, to **Monday, September 22, 2025**. No other deadlines are affected by this order.

IT IS SO ORDERED.

Dated: **July 8, 2025**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE